

Amend T.22, CCR Section 4400(r)

4400. Definitions.

- (r) "Payment earned" means the amount of ETP training cost reimbursement a contractor is entitled to based on the final billing per trainee as adjusted at Fiscal Closeout. For payment to be earned the trainee must complete the minimum number of training hours, be retained in employment and be paid the post-retention wage as specified in the ETP Agreement; and the contractor must be compliant with all requirements in the ETP Agreement.

Authority: Section 10205(l), Unemployment Insurance Code

Reference: Sections 10200, 10201(b)(2)(A), (B), (3), (c), (f), (g), (i), (j), 10202, 10203, 10204(b), 10205, 10206(a)(1)(C), (a)(2), (3), 10207(a), 10209(a), (b), (d), (e), (f), (g), 10210(a), 10211, 10212(a), (b), (c), (d), 10212.1, 10212.2(a), (b), 10213, 10213.5(b), 10214.5(a), Unemployment Insurance Code.

Amend T.22, CCR Section 4409.1

4409.1. Participating Employer Contributions.

- (a) A Multiple Employer Contractor (MEC) may charge a participating employer(s) for training-related costs that are not reimbursed by ETP if the charge is compliant with the procedures set forth herein.
- (b) A MEC may charge any of the following:
 - (1) A refundable deposit designed to ensure trainee participation or retention, which may be included in calculating the substantial contributions required for funding under the ETP Agreement. (See Section 4410 and Section 4401.1(e).)
 - (2) A nonrefundable deposit as needed to conduct training needs assessments or provide other training-related services that go beyond the scope of funding under the ETP Agreement;
 - (3) A nonrefundable deposit to reimburse the MEC for out-of-pocket training costs incurred when a trainee does not satisfy the requirements for funding under the ETP Agreement, which may be billed to the participating employer(s) only after ETP has determined that payment cannot be earned for the trainee. (See Section 4400(r).)
- (c) The charge must be consensual between the MEC and participating employer(s) as memorialized in a written agreement signed by both parties. The Panel is not a party to this agreement although it runs collateral to the ETP Agreement. The MEC must receive the Panel's prior review and written approval for such collateral agreement, or for any other writing conveyed by the MEC to a participating employer(s) that references the ETP program or uses the ETP name or logo.
- (d) Such collateral agreement will only be approved by the Panel if it:
 - (1) states the purpose of the charge, and whether it is nonrefundable;
 - (2) identifies the maximum amount to be charged per trainee, and what action will trigger billing, as applicable;
 - (3) informs that the charge will not be billed until ETP has determined payment cannot be earned per trainee;
 - (4) notifies that failure to pay the charge as billed may result in referral to a collection agency, as applicable.
- (d) In no event may charges to a participating employer(s) duplicate ETP funding. In no event may a trainee(s) be assessed any portion of direct or related costs for training funded under an ETP Agreement.

Authority: Section 10205(l), Unemployment Insurance Code.

Reference: Sections 10205 and 10206, Unemployment Insurance Code.

Amend T.22, CCR Section 4415

4415. Management Training Cap.

- (a) Supervisors and managers may not exceed 40 percent of the total trainee population under a single employer contract or Multiple Employer Contract.
- (b) The Panel shall, at its sole discretion, set the limitation on supervisor and manager trainees under a given training contract within a range of 20 to 40 percent. In setting this limitation, the Panel shall consider the purpose of training, type of training, method of training delivery and other factors pertinent to the overall goals of the ETP program, on a case-by-case basis.
- (c) For purposes of this limitation, supervisors and managers are workers who are exempt from payment of overtime compensation consistent with the definition of “frontline worker” at Section 4400(ee).
- (d) This limitation does not apply to small businesses (100 or fewer employees), or entrepreneurial training under Section 4409(c).

Authority: Section 10205(m), Unemployment Insurance Code.

Reference: Section 10200(a), Unemployment Insurance Code.

~~s 4440.1 Advances.~~

- ~~(a) — An advance for start-up expenses shall be provided only to public agencies and private, nonprofit organizations upon determination that an advance payment is essential for the effective implementation of a training program, and to the extent funds are available.~~
- ~~(b) — An advance may be granted no more than once per contract.~~
- ~~(c) — The amount to be advanced shall not exceed 15 percent of the total amount of the contract.~~
- ~~(d) — No advance payment shall be granted if the total contract exceeds \$400,000 without the prior approval of the State Department of Finance, pursuant to Section 11019 (a) of the Government Code.~~
- ~~(e) — A Fidelity Bond shall be required in the amount equal to or greater than the amount specified for the advance. The Employment Training Panel shall be named the Certificate Holder.~~
- ~~(f) — Nonprofit organizations shall be required to deposit such funds in a separate trust account with the ETP as beneficiary. Public entities are only required to account for funds separately. Any interest or dividends earned shall be used to reduce the costs incurred under the agreement.~~
- ~~(g) — All advances shall be held in trust for ETP and only spent by the contractor for operation of the agreement.~~
- ~~(h) — Payment of an advance shall be made as specified in the Agreement when accompanied by a showing of the necessity for an advance, an invoice and a detailed statement of estimated costs for the period to be covered by the advance.~~
- ~~(i) — The contractor shall require its insurance carrier to forward a Fidelity Bond with an original signature to the Panel before an advance can be authorized.~~

~~Note: Authority cited: Section 10205(k), Unemployment Insurance Code. Reference: Section 10206(a), Unemployment Insurance Code~~